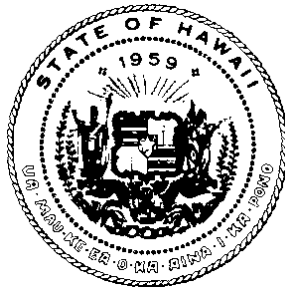


REPORT TO THE TWENTY-THIRD LEGISLATURE
STATE OF HAWAII
2006

PURSUANT TO ACT 227, SESSION LAWS OF HAWAII 2002



Prepared By:

**HOUSING AND COMMUNITY DEVELOPMENT
CORPORATION OF HAWAII**

Preamble

Section 9 of Act 227, Session Laws of Hawaii 2002, which put into place streamlined public housing eviction procedures, requires the Housing and Community Development Corporation of Hawaii (HCDCH) to submit a report to the Legislature twenty days prior to the start of the 2006 Legislative Session.

Prior to Act 227, SLH 2002, the public housing eviction process consisted of a two-tiered administrative process followed by appeal to circuit court, which took an average of 18 months to complete. Under Act 227, SLH 2002, the average length of time it takes to complete the public housing eviction process is now approximately 12 months. In spite of this progress, the U.S. Department of Housing and Urban Development continues to require the HCDCH to shorten the administrative evictions process.

Findings

The following report was prepared from data collected by the HCDCH's Hearings Office, and responds to the information requested by the Legislature, which is reprinted in bold text:

1. The annual and total numbers of public housing evictions (under the streamlined procedure), categorized according to the general nature of the lease violation or ground for eviction.

The table below lists the numbers of evictions by fiscal year and type of violation.

Although Act 227 was effective on June 28, 2002, eviction hearings could not be held until after the final approval of the Hawaii Administrative Rules (HAR) on the eviction procedure. Chapter 17-2020 "Eviction Practice and Procedure", HAR became effective on August 6, 2004. There were 2 public hearings held on the HAR for eviction procedures in FY 2004.

FY	Rent	Hskp	Distur	UG	Pet	Drugs/ crim	Reexam	Fraud
2003								
2004		1	1					
2005	136	3		5	1	5	14	1
Total	136	4	1	5	1	5	14	1

LEGEND:

- Rent=non-payment of rent
- Hskp=housekeeping
- Distur=disturbance/conduct
- UG=unauthorized guest
- Reexam=reexamination/recertification for eligibility
- Pet=violation of pet policy
- Profit=legal profit making from the unit without mgmt consent
- Fraud=failure to observe laws and regulations

2. The annual and total numbers of potential evictions that were averted due to the curing of the lease violations.

The notice to cure is issued to tenants by the eviction board following the eviction hearing. Pursuant to section 201G-55, HRS, tenants have 10 days in which to cure their violations to avoid issuance of a writ for eviction. The following lists the numbers of evictions averted due to curing of lease violations:

FY 2003 – None
FY 2004 – None
FY 2005 – 15
Total: 15

In the remainder of cases, tenants were either evicted or vacated their units for failure to cure their lease violations.

3. For each category of eviction in paragraph (1), the annual average length of time of the eviction proceeding, from the date written notice is first provided to the tenant of a rent delinquency (for nonpayment cases) or of the HCDCH's intent to terminate the lease, to the date of execution of the writ of possession.

Prior to Act 227, SLH 2002, the requested data was not tracked by type of lease violation. The administrative hearing process for evictions took an average of 18 months to complete, as follows:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Grievance hearing (3-4 months)				Eviction hearing (3-4 months)				Appeal board (5-7 months)							Appeal to Circuit Court (3 months)		

Act 227, SLH 2002 eliminated the Appeal board from the process, and added a mandatory informal resolution process between issuance of the first written notice of violation and the referral of the tenant for eviction. The table below indicates the average length time (in days) from the date of the first written notice to the tenant, to the date the tenant was referred for eviction, by type of violation, under the revised eviction process.

FY	Rent	Hskp	Distur	UG	Drugs/ crim	Reexam
2003						
2004		85	62			
2005	97			37	49	72

The table below indicates the average length of time (in days) from the date the tenant was referred for eviction to the execution of the writ of possession, by type of violation.

FY	Rent	Hskp	Distur	UG	Drugs/ crim	Reexam
2003						
2004		126	146			
2005	396	456		258	308	143

LEGEND: Rent=non-payment of rent
 Hskp=housekeeping
 Distur=disturbance/conduct
 UG=unauthorized guest
 Reexam=reexamination/recertification for eligibility

Note: these numbers only include cases where the writ of possession had to be issued and executed and exclude cases in which tenants vacated the unit prior to execution of the writ of possession.

4. Findings as to whether the procedures implemented under this Act have positively or negatively affected the eviction process or impacted upon the due process rights of tenants.

The procedures implemented in Act 227, SLH 2002 have positively affected the eviction process. As noted previously, the average length of time to complete the eviction process from first written notice to execution of a writ of possession has decreased from an average of 18 months to the current average of approximately 12 months.

For residents, the new law has also been more beneficial than the status quo. Since the implementation of the mandatory pre-eviction procedures established in section 201G-52, project management and residents have been able to avoid eviction referrals in a significant number of cases. Section 201G-52, HRS requires tenant and public housing management to undergo mandatory meetings to attempt to resolve violations informally before referring a tenant for eviction. For non-payment of rent violations, for example, this means that tenants may work with project management to enter into a reasonable payment plan to address rent arrearages, rather than being referred to the eviction process.

In practice, the section 201G-52 process has significantly reduced the number of violations that are ultimately referred for eviction. For example, at Palolo Valley Homes, nearly 150 violations were resolved through this process over the last three fiscal years. At the HCDCH's Management Unit 3, which includes Mayor Wright Homes, Kaahumanu Homes, and Kamehameha Homes, this process has resulted in the informal resolution of 830 out of 840 delinquencies during the past fiscal year alone.

A negative impact of the new law results from the requirement that a resident be appointed to the eviction board which hears eviction complaints. The HCDCH has had difficulties in finding residents willing to serve on eviction boards and to evict fellow residents. Resident members have been approached by evicted residents after the hearing, which poses a risk to them and perhaps their family. Resident members may also find it difficult to get transportation to the eviction hearing, and it is not always possible for the HCDCH to provide transportation for residents. However, these problems are not insurmountable with more outreach and assistance to interested residents, and are outweighed by the overall improvements to the public housing eviction process for both tenants and the HCDCH.

5. Proposed legislation to extend or repeal the sunset, or that improves upon the eviction process while protecting tenants' rights.

Due to the success of the amended eviction procedure established in Act 227, SLH 2002 in both averting unnecessary eviction referrals for curable violations, and in streamlining the eviction process for serious violations, the HCDCH will be submitting legislation in the 2006 Legislative Session to repeal the sunset date and make these changes permanent.